

ALLOWANCE

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/29/2009 has been entered. Claims 1-14, 18-19, 31 and 34-35 have been canceled. Claims 15-17, 22, 24, 30, 32-33, 36-46 have been amended. Claims 47-56 have been added. Claims 15-17, 20-30, 32-33, 36-46 are pending and address in this Office Action.

2. All of the arguments have been thoroughly reviewed and considered. Applicant's amendments place the claims 15-17, 21-30, 32-33 and 37-46 in condition. An Examiner's amendment and Examiner's statement of reasons for allowance appears below.

Examiner's Amendment

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kathleen R. Mejkian on October 22, 2009.

The application has been amended as follows:

- (a) In claim 15 at step (i) in line 3, --bacterial-- was inserted before "spore".
- (b) In claim 32 at step (i) in line 2, --bacterial--was inserted before "spore".
- (c) The claims 20 and 36 have been canceled.
- (d) Misnumbered claims 52-56 been renumbered to recite claims 54-58.

Reasons for allowance

4. The following is an examiner's statement of reasons for allowance: Applicant's amendment and arguments at pages 2-5 necessitate withdrawal of the prior art rejections under 35 USC 103(a). Applicant's arguments provides sufficient evidence that the teachings of Berg et al in view of Kolk et al not only do not teach the use of bacterial spores as an internal control for verifying the efficiency of sample preparation in PCR, but also teaches away from the use of spores as internal control reagents. No prior art could be found teaching the instant invention. Patentability of the instant claims depend upon the combination of method steps recited therein. Accordingly, the instant invention is deemed novel and unobvious.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CYNTHIA B. WILDER whose telephone number is (571)272-0791. The examiner can normally be reached on a flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GARY BENZION/
Supervisory Patent Examiner, Art Unit 1637